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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHNNY RAY GILDER, JR.,
Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,
Defendant.

No. 1:24-CV-01219 (SKO)

**STIPULATION AND UNOPPOSED
MOTION FOR AWARD AND PAYMENT
OF ATTORNEYS FEES PURSUANT TO
THE EQUAL ACCESS TO JUSTICE ACT
(28 U.S.C. §2412(d)); ORDER**

(Doc 14)

1 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
2 attorneys, subject to the approval of the Court, that Johnny Ray Gilder, Jr. ("Plaintiff") be
3 awarded attorney fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. §2412 (d), in
4 the amount of five hundred and ninety-nine dollars and thirty-two cents (\$599.32). This
5 represents compensation for legal services rendered on behalf of Plaintiff by counsel in
6 connection with this civil action, in accordance with 28 U.S.C. §2412 (d).

7 After the Court issues an Order for EAJA fees to Plaintiff, the government will consider
8 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v.*
9 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
10 attorney fees are subject to any offset allowed under the United States Department of the
11 Treasury's Offset Program. After the Order for EAJA fees is entered, the government will
12 determine whether they are subject to any offset.

13 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
14 that Plaintiff does not owe a federal debt subject to offset, then the government shall cause the
15 payment of fees approved to be made payable to Melissa Newel or Newel Law (collectively
16 "Plaintiff's counsel"), pursuant to the assignment executed by Plaintiff. Any and all payments
17 made shall be delivered to Plaintiff's counsel by electronic transfer or by check.

18 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
19 attorney fees and does not constitute an admission of liability on the part of Defendant under
20 EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any
21 and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees
22 and expenses in connection with this action.

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1 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security
2 Act attorney fees under 42 U.S.C. §406(b), subject to the provisions of the EAJA.

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4 Respectfully submitted,
5 Dated: January 13, 2025 NEWEL LAW

6 By: Melissa Newel
7 Melissa Newel
8 Attorney for Plaintiff
9 JOHNNY RAY GILDER, JR.

10 Dated: January 13, 2025 PHILLIP A. TALBERT
11 United States Attorney
12 MATHEW W. PILE
13 Associate General Counsel
14 Office of Program Litigation, Office 7
15 Social Security Administration

16 By: Justin L. Martin*
17 JUSTIN L. MARTIN
18 (*Authorized by email dated 01/13/2025)
19 Special Assistant U.S. Attorney
20 Attorneys for Defendant

21 **ORDER**

22 Based upon the parties' Stipulation and Unopposed Motion for the Award and Payment of
23 Equal Access to Justice Act Fees and Expenses (the "Stipulation") (Doc. 14),

24 **IT IS ORDERED** that fees and expenses in the amount of FIVE HUNDRED AND
25 NINETY-NINE DOLLARS AND THIRTY-TWO CENTS (\$599.32) as authorized by the Equal
26 Access to Justice Act (EAJA), 28 U.S.C. § 2412(d) and costs in the amount of ZERO dollars
27 (\$0.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

28 IT IS SO ORDERED.

Dated: January 14, 2025

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE